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SERVICE DATE – AUGUST 23, 2017

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36075

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY—PETITION FOR DECLARATORY
ORDER

Decided: August 22, 2017

By decision served on January 17, 2017, the Board instituted a proceeding to consider issues raised by Illinois State Toll Highway Authority (Tollway) and Soo Line Railroad Company d/b/a/ Canadian Pacific Railway (CP) regarding whether 49 U.S.C. § 10501(b) preempts the Tollway's eminent domain authority to acquire the temporary and permanent easements needed to construct highway bridges over CP's rail tracks near O'Hare International Airport and the implications of the Tollway's prospective plans for its proposed Western Bypass to cross or go through CP's Bensenville Yard.

By decision served May 31, 2017, the Board directed the parties to confirm whether they would participate in Board-sponsored mediation. On June 15, 2017, the Tollway and CP jointly filed a letter notifying the Board that the parties have agreed to engage in direct settlement discussions and would engage in Board-sponsored mediation, if necessary. At the Board's request, the parties filed a status report on August 10, 2017, stating that they continue to engage in direct settlement discussions and therefore request that any such Board-sponsored mediation be scheduled to commence no earlier than September 11, 2017, and no later than October 16, 2017, unless otherwise requested by the parties.

The parties are directed to provide a status report by September 8, 2017, to indicate whether the issues discussed above have been resolved privately, if the parties want to continue with their direct settlement discussions, or if the Board should initiate Board-sponsored mediation.

It is ordered:

1. The parties are directed to file a status report by September 8, 2017.
2. This decision is effective on the date of service.

By the Board, Rachel Campbell, Director, Office of Proceedings.